

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION JOINT APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT AND TRANSPORTATION

Call to Order: By **CHAIRMAN BOB DAVIES**, on February 9, 2001 at 8:10 A.M., in Room 317-B Capitol.

ROLL CALL

Members Present:

Rep. Bob Davies, Chairman (R)
Sen. Jack Wells, Vice Chairman (R)
Rep. John Brueggeman (R)
Rep. Monica Lindeen (D)
Sen. Bea McCarthy (D)
Sen. Corey Stapleton (R)

Members Excused: None.

Members Absent: None.

Staff Present: Greg DeWitt, Legislative Branch
Cyndie Lockett, Committee Secretary
Amy Sassano, OBPP

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: Secretary of State's Office,
2/9/2001; Department of
Revenue-Discussion on Issues
Raised in Feb. 8th Hearing,
2/9/2001

Executive Action: None.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 30}

HEARING ON SECRETARY OF STATE'S OFFICE

Mr. DeWitt gave a short description of the Secretary of State's Office.

CHAIRMAN DAVIES asked **Bob Brown, Secretary of State**, to overview the office. **Mr. Brown** explained his office and mentioned that it is proprietary and is run like a business. He continued with the overview of his office. He then introduced his staff.

Jason Thielman, Chief Deputy Secretary of State, provided more specifics of the office. He went through a PowerPoint presentation and provided a handout **EXHIBIT(jgh33a01)** for the subcommittee to follow. He presented another handout **EXHIBIT(jgh33a02)** that compared fees of Montana to other states and handout **EXHIBIT(jgh33a03)** on sales of the office by item with various percentage increases identified.

SEN. STAPLETON asked if a scanned document is as official as the original and do they need to keep the original? **Lynn Keller, Director of Records Management**, said the laws are currently changing. There is an Electronic Transaction Act, and with this act, it will no longer be a necessary to keep an electronic copy and an original.

REP. LINDEEN commented that she should explain more about what they are trying to do with these records. **Ms. Keller** explained that the state records committee has developed rules to get state agencies moving forward with electronic transactions and to implement this system. Currently, for any document that has a retention period of 10 years or longer agencies are asked to keep a paper copy or a microfilm copy.

{Tape : 1; Side : B; Approx. Time Counter : 30 - 60}

SEN. STAPLETON asked for clarification on the largest fee the Secretary of State's Office charges, which is for registering corporation shares. **Mr. Thielman** explained that a corporation charter is filed with the office; it will issue only so many shares and the price of doing that is dictated in statute. For example, if a corporation has a million or more shares, the cost is \$1,000.

SEN. WELLS asked about the chart for the internal service fund that shows expenditures versus revenues. He asked how the office operates when expenses exceed the income. **Mr. Thielman** answered that in the past this has been an audit point as well as a Legislative Fiscal Division(LFD)point. The enterprise fund shows the direct opposite since revenues have exceeded expenses. In this situation, the enterprise fund provides a loan to the internal service fund, and he would like to comment that he feels its contributed capital has been brought into the internal service fund to subsidize that function. He would like to avoid this in the future. The Secretary of State's Office is seeking legislation that would allow more cross utilization of money between the different functions.

Mr. Thielman went into more detail on some of the information system issues for **REP. LINDEEN**.

Mr. DeWitt asked **Mr. Thielman** if their office was going to make the last loan in FY02, would the Secretary of State anticipate paying it back or would it be one of these past practice types, contributed capital equity transfers? **Mr. Thielman** responded that he would like to say that they are going to pay it back, similar to a legitimate loan and not contributed capital, but it is difficult to make that commitment at this time until there is a better understanding of how revenue and expenses come in next year and the practical effect of these fees.

Mr. Thielman was asked to combine the fiscal budget analysis fee sheet and the fee sheet he handed out so the subcommittee would not have to look back and forth between the two. **Chairman Davies** said that once they got this fee sheet updated they would take executive action.

HEARING ON DEPARTMENT OF REVENUE

Kurt Alme, Director of Department of Revenue (DOR), stated that during yesterday's hearing numerous questions and concerns were raised. After the hearing, he had a chance to step back and determine how to respond to all the testimony. The subcommittee has heard testimony that POINTS will never work, but it has also heard various rumors about the system and its impact on customers and DOR employees. He wanted the subcommittee to be in a position to determine what is truly the situation, and how to respond. He asked his employees to come forward and give facts on issues raised at the February 8 subcommittee meeting. He mentioned that Lisa Barton, employee of the DOR, came forward and talked about her perspective on POINTS. Now, as a side, he wanted to assure the subcommittee that the DOR does not frown

upon Lisa for her actions, and there will be no retaliation inside the department. In the spirit of her testimony yesterday, the DOR wants to invite the subcommittee to visit the DOR and meet the people who are working on POINTS or who work with POINTS. He suggested that the subcommittee might want to see a demo of POINTS phase I and see the progress being made on POINTS phase II. DOR's goal is to try to get the subcommittee good, factual information that it will need to make decisions regarding POINTS. Finally, he asked his staff to talk about two other topics that will be helpful to the subcommittee. First, he wanted them to describe the project management controls and decision making processes that have been and are currently being used in POINTS, in order to give the subcommittee some level of comfort. Second, to discuss the pros and cons of some of the options that the subcommittee discussed and the options he has heard to abandon POINTS phase I, abandon POINTS phase II, and implement POINTS phase II. He believes that his department is capable of negotiating its way through some of these difficult decisions. However, he understands the need of the subcommittee to conduct oversight on the revenues that are spent on the behalf of taxpayers and looks forward to sharing any information that the subcommittee thinks is relevant.

Lynn Chenoweth, Process Lead for Resource Management, he wanted to talk about recommendation one and these were responses to the legislative audit report. These issues can all be followed on the handout given to the subcommittee from **Mr. Alme**

EXHIBIT (jgh33a04).

He read recommendation one and stated that DOR identified two things that it needs to address this recommendation. They created a work plan that identified all the tasks that needed to be accomplished: who is responsible for the task; when it should occur; what time line is expected; and what results occurred. The second step is to develop proper review procedures to ensure the work is getting done and that it is getting done properly. This was the heart of the problem behind recommendation one, because the transactions occurred and entries were made, but they were made in error. This is because there was not adequate oversight or review of some of the transactions. **Mr. Chenoweth** moved to recommendation two. The DOR agreed with this recommendation because of the concern that the data in POINTS was not being adequately reconciled with the data in SABHRS. There was not proper documentation, but DOR will have documentation soon. He continued on to recommendation three and said the DOR agreed with this recommendation. At the time of the audit, there were some payments that had been significantly delayed in deposit and the reason for that was that the money was not clearly identified when it came in. Before they could put it into

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POINTS, they had to know what the payment was for. These payments were set aside while they contacted the person to find out what the payment was for. This, in some cases, caused quite a delay in entering the payments into the system. DOR has now been changed in two ways. It changed POINTS so the money can be put into a holding account until it is identified as to where it should go. The staff at DOR receiving the money will now automatically put it into POINTS.

SEN. WELLS asked how the actions the DOR is taking affects the 183 mission critical defects? **Mr. Chenoweth** said there are some defects in POINTS that need to be fixed in order to address these recommendations.

Mr. Chenoweth moved to recommendation four and told how it was a POINTS defect that has been fixed. There were several months when the DOR could not issue refunds through POINTS to employers. He read through recommendation five and six of the handout **(EXHIBIT(4))**.

SEN. WELLS asked if there was a way for DOR to show all the accounts not annotated yet in the POINTS system? He asked if there was a way to tell how many are in error and how many are not? **Mr. Chenoweth** was not r sure what **SEN. WELLS** wanted. **SEN. WELLS** asked out of all these employers accounts that DOR has, how many are in error? **Mr. Chenoweth** said he did not know if the DOR could answer that.

{Tape : 2; Side : A; Approx. Time Counter : 0 - 30}

Sen. Wells asked if the DOR can tell if there is a certain percentage in error, like 20 percent or 30 percent? **Mr. Chenoweth** said that **Dan Ellison** will address that issue.

Mr. Chenoweth reviewed recommendation seven. He then moved on to recommendation eight and read it word for word from the handout.

SEN. STAPLETON asked if this is the section that addresses the questions he asked regarding the tax audits performed over the last five years. **Mr. Chenoweth** said that it was, but he commented that **SEN. STAPLETON's** question was a little broader than that. This deals with the audits DOR is doing for the Department of Labor in compliance with the their fee for service agreement. The auditors felt DOR did not meet the requirements of the fee for service agreement.

SEN. STAPLETON asked **Mr. Chenoweth** for a response on what he asked yesterday. **SEN. STAPLETON** commented that in the last 10

years the census shows the population grew by 10 percent or so. The audits completed would slowly increase along with that. A few years ago the DOR was doing about 140,000 audits a year, and it has dropped drastically to 82,000. Does the DOR know approximately how many audits will be completed for fiscal year 2001 and does the DOR intend to get back up to the historical number, which also correlates with \$9 or \$10 million additional general fund revenue? **Don Hoffman, DOR**, said that he wanted to clarify that what was in the audit report was related to only the unemployment insurance (UI) piece and the audit **SEN. STAPLETON** was taking about yesterday was an overall revenue picture of the entire department and the compliance efforts they do. The standards that DOR was not meeting regarding UI related to audit penetration. Audit penetration is driven by the number of employers the DOR audits. Each year as the number of employers goes up, the number of audits required to be done by DOR will increase. Regarding the question of whether DOR plans to get back to the 1999 audit level, yes DOR wants to. The biggest obstacle DOR has is its ability to attract and hire qualified auditors.

SEN. STAPLETON wants to know how many audits were completed for 2001. The tight budget makes it important to know if the DOR is going to be bringing in \$25 million. The subcommittee can understand some of the POINTS problems a little easier if DOR continues to do what it has always done. If DOR ceases what they have done, and there is an historical deficit of \$9 million and a POINTS problems then it's a double whammy. **Mr. Hoffman** said that in the corporate license tax area, DOR is clearly ahead in terms of the dollars collected. Since income tax collection is spread out during the fiscal year, he would have to research the effort in the audit arena. It picks up more at this time of year because of the processing of returns and finishing up of the prior year's processing. **Mr. Hoffman** stated he would look those figures up for **SEN. STAPLETON**. **SEN STAPLETON** said it is not necessary, but he strongly encouraged the DOR to get back to the level shown in 1996, 1997, and 1998. **Mr. Hoffman** replied that is where DOR wants to be, and they feel the pressure that is coming as a result of the drop-off in their compliance effort.

Mr. Chenoweth continued with recommendation eight, and the information he went over was on page 5 of the handout (**EXHIBIT (4)**). He finished discussing the recommendations and their status.

Chairman Davies asked **Mr. Hoffman** if once they are properly staffed again to do these audits, how far back can they go in years to catch up or collect? **Mr. Hoffman** said that for

corporation license tax there is a three year statute of limitations. DOR can go back for three years from the time a corporation filed its return. One thing that happens with corporation license tax is that DOR focuses on 100 corporations that pay 60 percent to 70 percent corporation license tax in Montana. These are fortune 500 companies that are audited by the internal revenue service (IRS), and when they are audited by the IRS, they usually sign a waiver of their federal statute of limitations. When they sign that waiver, under Montana law, that also waives the statute of limitations in Montana. For the most part, the rest of the taxes have a five year statute of limitations.

Ms. Linder wanted to share that audits are done on state departments every two years. One of the features that is paramount for the auditor to do is to review the prior audit recommendation and determine if the agency complied with what it said it was going to do and if it was done in a timely manner.

Neil Peterson, Process Lead for the Customer Service Center, addressed six items that were brought up in yesterday's meeting. He stated that POINTS defects for unemployment insurance are a low priority. He commented that by March 31 of every year they must send out an experience rating to employers and that, in part, drives what their tax liability will be. DOR considered that it was critical to fix that defect.

Mr. Peterson said that the general fund did not receive interest paid to the UI trust fund. Most duplicate refunds occurred due to the nightly process to run batch updates to SABHRS. The updates tell SABHRS to issue refund checks. In one instance during the nightly batch update, there was a record that was incorrect and the individuals responsible for the batch updates thought they had stopped the batch from running. They corrected the record and resubmitted it, which generated 456 duplicate refunds. The important thing to realize is that as soon as they figured out that this had happened, DOR made a mad dash to central mail and pulled all the duplicate checks except for 67. These 67 duplicate refunds that were not stopped were direct deposits. Of the 67, 36 people sent back the duplicate refunds and 31 were set up as an accounts receivable. DOR has put in some controls to make sure that this does not happen again. The system will not allow a person to resubmit a batch that has already gone through the system.

Mr. Peterson talked about the scanner purchase and went over page 8 of the handout. He went on to discuss the issue of the customer service center not talking to other agencies or

confirming their commitment. He stated that in 1996 the DOR had 50% of transactions in the state government. This high volume of transactions, which is close to a million right now has enabled the DOR to invest in technology like the scanner. Of 13 agencies that processed remittance transactions, 9 had a cost of more than \$1.00 to do that. The cost to process remittance transactions was more than \$2.00 for five of these agencies while DOR was doing it for \$0.50 per transaction. All 13 agencies involved in this study signed off on this particular vision statement and the feasibility study. In addition to participating, at least three other agencies contributed funds for the study. In December 1996, after the study was completed, DOR went to the legislature and asked for funding in HB 188, to get the DOR infrastructure in place and to do some reengineering so they could enable this revenue processing center. DOR also visited with 8 of the agencies multiple times to discuss transferring their remittance processing functions to DOR. DOR developed the remittance processing center to meet the business requirements of the agencies.

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Mr. Peterson said the cost benefit analysis in the feasibility study showed that the state could save approximately \$1.1 million in expenditure costs and could potentially increase revenue by \$1.7 million.

Mr. Peterson talked about debt collection concerns addressed on page 9 of the handout (**EXHIBIT (4)**). He read over the information on this page.

SEN. WELLS asked if there was a possibility that any of the state agencies would utilize the customer service center. **Mr. Peterson** said the DOR would continue to work with agencies if they come to the DOR. They will try to provide some kind of service.

Dan Ellison, Information Technology Manager of the Department of Revenue gave a summary of the POINTS I system. He also invited the subcommittee to come and take a look at POINTS. He talked about the registration module and how it relates to **SEN. WELLS's** question about how much or what percent is working. **Mr. Ellison** said this is a hard number to come up with because the registration module tracks a customer for all tax types instead of having that customer tracked separately in a number of tax types. The customer registers one time and then the variety of tax types that apply to that customer are tracked in that one registration process. This registration module is working to near design specifications. This part of the module works very

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well and there seem to be only a few minor defects. As defects surface and are listed with our POINTS action line team, they are assigned a priority and worked on.

Mr. Ellison talked about the returns processing module and how it is not working as well. He told **SEN. WELLS** he would be hard pressed to give a number like 80 percent or 90 percent because much of the module works as it is designed. He emphasized that there are one or two very important functions that happen with this module. The payment, wage information, and a number of other things flow through the returns processing module that are very crucial to handling the various tax types. There are a number of defects that the DOR thought were fixed during the blitz effort that unfortunately failed in the quality assurance and testing stage. They went back to the developers to look at those defects and to analyze the code. He expects to have fixes done there maybe as early as next week.

Mr. Ellison said the case management module is the key module for the POINTS phase I basic system.

Mr. Ellison said the accounting module is by far the most complex module and has the most difficulties. It touches all of the other core modules in the POINTS system. They ran into more difficulty than anticipated in the blitz effort so the migration of defects into production could not happen. The effort was extended, and they have additional people on this project.

Mr. Ellison discussed the forms and correspondence module. This was very straight forward and it is working close to design specifications, but has a few minor defects. **Mr. Ellison** gave an example, when **Director Alme** came on board, DOR had to change the signature block from the previous director to the current director. Unfortunately, the system did not recognize any previous director for correspondence that was sent out last year or the year before. If they had to regenerate a letter, instead of it having the former director's name on the bottom of it, it had **Director Alme's** name. This is a small, but very important aspect to the DOR's business, and it is something they have to do. This could be working at 99 percent, but that one defect was almost a show stopper for the DOR. He wanted to emphasize why it is hard for him to quantify more precisely where the DOR is with the various modules and the status of the operational ability today. He asked the subcommittee to please come over to the DOR and see a demonstration of POINTS.

CHAIRMAN DAVIES asked if all the functions that were intended to be used in POINTS phase I from design days are all being utilized

right now. **Mr. Ellison** said no because there are defects that prevent some of the functions from being used. Additionally, they have had many enhancements come up as users have familiarized themselves with the system. Some of the users would like things done to the system that were not in the scope or earlier design; there is a team that works on those enhancements and prioritizes them. As an example, he stated priority five defects are the ones they characterize as enhancements and right now there are over 100 of these defects. The enhancement defects represent approximately 15 percent of the total number of defects. **CHAIRMAN DAVIES** said he was looking more at functions like the unemployment insurance, so what else as far as overall job functions? **Mr. Ellison** said the core modules that were included in the initial design are functional today.

REP. LINDEEN asked if the DOR could tell the subcommittee how many defects are in each module and the priority level on these defects. **Mr. Ellison** said yes and stated that as of yesterday there were a total of 719 defects. Of these, there were 183 mission critical defects; 230 priority one defects, 97 priority two defects, 72 priority three defects, 36 priority four defects, and 101 priority five defects (enhancements). **REP. LINDEEN** asked for a break down by module? **Mr. Ellison** said he didn't have it with him, but he would get it for her.

Mr. Ellison read over the information that dealt with the cost to make the legacy system Y2K compliant. **REP. LINDEEN** asked if there is a document that supports this analysis. **Mr. Ellison** said he researched the Y2K file last night, and he does not have one document where that number resides because it was a compilation of several documents. He said he would produce the analysis for **REP. LINDEEN** and bring it over to her. He used costs of the developers that would not have been working on POINTS phase I implementation in December that were hired by the contractor. **REP. LINDEEN** asked if this is what DOR used to come up with this number? **Mr. Ellison** said it is what they used to come up with this number last night. **REP. LINDEEN** referred back to the original decision; there should have been a document that said here is the analysis of making this decision, and it should have been a cost effective analysis. **Mr. Ellison** asked if he could search for this document and provide it to her.

Mr. Ellison explained about the report that stated some people worked on POINTS from home and got 80 hours of overtime. They took a hard look at overtime and printed up the information found on page 11.

REP. BRUEGGEMAN asked, what the warranty period was when the DOR signed off on POINTS in September 1999? **Mr. Ellison** said the warranty period established in the contract was 130 business days. This would have taken warranty to June 2000, and then there was an extension of that warranty because of the number of defects detected while this warranty was in progress. The warranty was extended six weeks and that went into the August time frame. **REP. BRUEGGEMAN** asked how much has been spent since the expiration of the extended warranty? **Mr. Ellison** said he did not have a figure with him today on that, but could get back to him on it. **CHAIRMAN DAVIES** said during that warranty period there were quite a number of problems identified, and he thought that even though the warranty ran out that since the contractor was working on warranty items the day the warranty ran out, then they should ignore the run out period and work until they fix all the problems. **Mr. Ellison** said that the Chairman's point is well taken. There were a lot of defects that remained when the warranty expired, and the list continued to grow as the users started to get familiar with the system. When these users try to use core functionality that was built in and for one reason or another were not able to do that. The contractor helped, to some extent, in identifying defects and remedying those defects, and offered people beyond warranty for no cost for a period of time. At some point, the decision was made to go forward with the POINTS phase II while continuing to work with a good size work force on the defects that remained on POINTS phase I. There were some contract workers and some DOR employees working on it. Today, those working on POINTS phase I are about half and half. He believed he had eight DOR employees and seven contracted employees working on POINTS phase I.

CHAIRMAN DAVIES said they have not totally dropped POINTS phase I. In other words, they still feel an obligation to fix it. **Mr. Ellison** said he could not actually agree with that statement because they have turned more of their focus to POINTS phase II, and the DOR is totally focused on POINTS phase I maintenance at this stage. **CHAIRMAN DAVIES** said there are still problems that were identified prior to the warranty running out, and **Mr. Ellison** said that is correct. **CHAIRMAN DAVIES** said this thing is such a mess and the subcommittee is getting so much input, but is there a possibility of legal action? **Mr. Ellison** said he would not like to speculate on that. His focus as the information technology manager is to work on defects that exist in POINTS phase I and keep the work force focused, motivated, and productive in that regard. As the subcommittee knows, the DOR has an ongoing relationship with the contractor, who is working on POINTS phase II with two subcontractors. DOR has had a number of discussions with the contractor about the ownership of defects

and what DOR would like them to do in helping with that. They have participated in the blitz effort to some extent and so DOR has not been ignoring its responsibilities in this process.

CHAIRMAN DAVIES asked the DOR if they are ignoring their responsibilities? **Mr. Ellison** said no. **CHAIRMAN DAVIES** said the question should be are they ignoring their responsibilities? **Mr. Ellison** said that depends on who you talk to, and what day you talk to them. **Mr. Ellison** said he has had some good responses, but also some that he did not think quite measured up. DOR has had detailed discussions involving responsibilities, and the contractor knows they built POINTS phase I, and it does not work like it should. DOR is doing what it can to get that situation corrected. **Mr. DeWitt** asked at their cost or the state's cost? That is the underlying question, because if you bought a car and identified before the warranty expired that it did not have a tire. It looks like DOR is buying the tire, and the contractor is curing it, but the DOR is writing the check and the contractor should be paying for the tire. **Mr. Ellison** said the most correct answer he could give at the moment is that DOR is experiencing the cost for remedying the defects in POINTS phase I. Many of those defects were identified after the warranty expired. **Mr. Ellison** could not give a list today on which ones were on the defect list when the warranty was determinated. **CHAIRMAN DAVIES** asked if there was a lemon law on computer systems? **Mr. Ellison** said if there is not there should be.

REP. BRUEGGEMAN stated that currently there are seven Unisys employees working and asked if the state is paying for them. **Mr. Ellison** said, the POINTS phase II project has UNISYS managers and other employees, and then two subcontractors. These are all associated with the costs of the POINTS phase II project. No Unisys people are currently helping with POINTS phase I defects and no one working on fixing defects or POINTS phase I maintenance. **Mr. Ellison** has other contractors helping the POINTS phase I, but none are contractors with UNISYS

REP. BRUEGGEMAN asked when was the last time DOR had UNISYS working on the defects with POINTS phase I. **Mr. Ellison** said that would have been December of last year.

REP. BRUEGGEMAN asked if there was any cost in the blitz effort with using UNISYS people.

{Tape : 3; Side : A; Approx. Time Counter : 0 - 30}

Mr. Ellison said there was some cost and a change order was signed for the UNISYS people who participated in the blitz effort

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and that was negotiated between DOR management and UNISYS management before the blitz effort was put together in early November last year.

REP. BRUEGGEMAN said the way he sees it, UNISYS is still working with DOR on a contract, but with POINTS phase II, and it has washed its hands of POINTS phase I on a system that is not functioning at a level that the DOR contracted for. He thought the \$800,000 should have been spent to upgrade the legacy systems and run them in parallel. He also said that the POINTS system may have outstanding merits, and it may be a great system, but DOR should have kept the legacy systems running and paid the \$800,000 to get them Y2K compliant. This would have made it possible to run the two systems in parallel and all the while keeping UNISYS under contractual obligation before DOR signed off. This would have made sure the system was up and functional and not having 183 mission critical defects. He is very concerned at this point because the DOR is looking at paying or continuing with UNISYS on the contract, and he feels that UNISYS did not operate with all the best intentions. As he sees it, with different questions and comments that have come up maybe it is not a good contract for DOR to be working with or under. He would not invest in UNISYS, and he does not think the state should invest anymore of its money. **Mr. Ellison** said to **REP. BRUEGGEMAN** that his questions and comments cut to the heart of the issue and the subcommittee will hear more testimony today as the DOR speaks to the different issues. **Mr. Ellison** said he did not have the answer for **REP. BRUEGGEMAN**, but wanted to say that, to the extent that DOR signed on again with Unisys for POINTS phase II after the POINTS phase I experience, there were intense negotiations that proceeded signing the second phase of that contract; and DOR made some very specific changes to the language in the POINTS phase II contract that were not in the POINTS phase I contract. DOR is doing the best job that it can to manage the project within time constraints and budget that was provided.

REP. BRUEGGEMAN said that he is not concerned with POINTS phase II at this point. He is happy that the DOR has a great contract with POINTS phase II. The problem is not with POINTS phase II, it is POINTS phase I and the failures with that system. He thinks it would be in UNISYS's best interest to start helping the state address these problems before looking for the state to extend the contract. There is a serious problem with POINTS phase I, and he believes the contractor should, in good faith, be helping the state with this. The warranty may have expired, but in their effort to continue working with the DOR, they have some obligation to the state.

CHAIRMAN DAVIES asked if there were any UNISYS employees working on POINTS phase I? **Mr. Ellison** said no. **Chairman Davies** said he assumed that there are DOR employees working with UNISYS on POINTS phase II? There are 20 or 21 DOR employees working with UNISYS on POINTS phase II. **CHAIRMAN DAVIES** asked if this DOR help is in the contract? **Mr. Ellison** said yes, it is DOR's contractual obligation to provide a number of employees from different areas. **CHAIRMAN DAVIES** asked if in the best effort to make this work, is the DOR above or below the contractual obligation in providing help to them for POINTS phase II. **Mr. Ellison** said they have right number of people working on POINTS phase II.

Mike Alamia, Change Management Department of Revenue, spoke about leadership turnover and said it is the task of change management to monitor turnover within the DOR, not only leadership, but staff turnover, in order to identify risk areas in the organization. He pointed out that DOR did not lose the historical data since those individuals moved within the organization. They are called forward in a process called value engineering to receive information from these individuals. The DOR does follow turnover and understands the risk of turnover.

Jeff Miller, Policy & Performance Management, discussed the spending recap for the POINTS project. He reviewed the information on page 12 and then went over page 13, which discussed the background information on UNISYS. UNISYS wrote this page. He also had UNISYS provide a list of people or cities in which they worked.

REP. LINDEEN asked if UNISYS had completed a successful integrated tax system. **Mr. Miller** stated that when it says the systems are in production, they have implemented the system. **REP. LINDEEN** asked **Mr. Miller** if out of the list of UNISYS integrated tax systems clients he knew of a successful system. He said personally he does not, but the DOR project director could speak to that.

Mr. Miller then explained the copy of the request for proposal and the UNISYS response. He also gave a 3-ring binder, which contained a complete copy of the original RFP, the UNISYS proposal, correspondence seeking clarification of specific items, a copy of the contract, the statement of work specifying the work to be performed in each component of the project, and the responsibilities of each party **EXHIBIT(jgh33a05)**.

Mr. Miller talked about the framework for this project in terms of management control, decision making, and administrative

review. He read through information on pages 15 and 16 of the handout **(EXHIBIT(4))**. **REP. LINDEEN** asked if DOR lowered the amount of defects there could be, and if this was done by the different priorities. **Mr. Miller** said DOR does not mention in the contract about defects for acceptance criteria at this point. It does not matter to the DOR what the number of defects is because they want to be satisfied that the application is working, and working the way it was designed. DOR will only be satisfied after it sees the system tested thoroughly. The other thing **Mr. Miller** pointed out is that most contractors like their payments front loaded and they have back loaded this contract the best they could.

Denny Espeland, Independent Consultant for the DOR, told the subcommittee he had 20 years of IT experience, and the last 10 have been in project management. He worked nine years in the public sector and 11 in the private sector. He has worked for the state of Montana in developing systems for State Lands, State Fund, Secretary of the State, and Welfare. All of these systems are still in operation except for the State Fund system. All these systems were developed on time, within the schedule, and within budget. However, none of these systems came up without problems. He considers his role with DOR to be a coach, but more specifically, he is the third party quality assurance person who was talked about in yesterday's meeting. The DOR has done the right thing by trying to hire expertise to come in and assist. He said he is in part responsible for where the DOR is today, and he says that with pride. He says it with pride because DOR has implemented a system within budget, closely on time, and it is a system other states are going to be envious of. The system has not been without problems; it has not been without difficulties; and it has been extremely challenging for him, DOR, and the contractor. He said even though the DOR is experiencing problems, the problems are not as big as Florida and Mississippi. He said he did not think these states were UNISYS projects. He pointed out all these big contractors have had disastrous projects. Automation is a way of life and risk is a huge factor that is involved. His role on this project was to reduce the risk for the DOR. He said cost is a major factor in risk mitigation. The warranty is an example and the six-month warranty the DOR purchased is very similar to purchasing a warranty on a car. The contractors do not guarantee the computer systems will come up and not have problems forever. As soon as a system is in place, then enhancements are very important. There have been 55 enhancements to the POINTS system since its implementation. The enhancements are just as critical as fixing the mission critical defects. The system is changing, and it is going to continue to change. It will continue to improve, and it

is going to work better every day for the DOR. He said the DOR could have purchased another six months of warranty, but the difference is that with a car warranty, if the problem is identified before the warranty is up they will fix, but with a computer software system, it doesn't work that way and they limit it. There is a limit because they limit their exposure. To give an unlimited warranty, the cost would go up, and the cost for warranty was \$600,000. Another six months might have been a good investment. **REP. BRUEGGEMAN's** point is well taken, in hindsight it might have been better. However the DOR was not faced with unlimited budget. Every single decision was very hard. The Y2K concern was one that **Mr. Espeland** supported. In hindsight, he still thought, given the information at the time, he probably would have made the same recommendation. It is hard to throw \$800,000 away, and dump it into a lost cause that will be a six-month band-aid. He said faced with that decision as a taxpayer, it was a difficult decision and took a lot of courage to make the decision. Had they known they would double issue 445 checks, they may have taken a different position. If they had known that 445 checks would be double issued and only 12 outstanding, they probably would have made the same decision. **Mr. Espeland** then referred the subcommittee to page 16 to go over a few things. First, he said that the bad code did not come from Denver it was a different technology. Everything that was written on Montana's system was done in Oracle, and it was brand new code. If you compare Montana's system with Colorado's system, they are not the same. The subcommittee could not even recognize them as being the same. However, the DOR has bad code. DOR did the right thing in defining coding standards and developing standards.

REP. LINDEEN wanted to know how much of the standard violations from POINTS phase I were cleaned up by UNISYS. **Mr. Espeland** did not know the percentage of violations that had been cleaned up, but stated that the maintenance team started in August when they ran into violations. Not all code was in standard violation. He admitted that a substantial amount of POINTS phase I code does not meet standards, but POINTS II code meets all of its standards. **REP. LINDEEN** asked **Mr. Espeland** from his experience do you see any problems with moving forward with POINTS II until the code in Phase I is fixed? **Mr. Espeland** said where DOR has overlaps between POINTS phase I and POINTS phase II code. He stated they are making changes from POINTS phase I and adding programs to POINTS phase II. In every situation, the standards in POINTS phase I will be cleaned up before DOR implements POINTS phase II. **REP. LINDEEN** asked if it would be easier to move forward with POINTS phase II once the code in POINTS phase I is clean. **Mr. Espeland** said it would have no impact, as an example in phase I, there are modules that tax specific experiencing

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rates. They do not do experiencing rating for individual tax, corporate licence tax, and property tax.

{Tape : 3; Side : B; Approx. Time Counter : 30 - 60}

Mr. Espeland continued talking and pointed out that standard violations do not always mean defects. However they do make it hard to make changes to the code. **REP. LINDEEN** asked if the DOR has this plan in writing, and when there is overlap between POINTS phase I and POINTS phase II, that everything will be cleaned up. **Mr. Espeland** said he is 100 percent sure that if the clean up is not done, then they will not implement.

Mr. Espeland talked about running the new and old systems in parallel. He also wanted to allude to the loss of department staff and stated that the DOR could not run a full blown parallel, but a modified one. DOR could take a subset of the production cases and run them side by side. He said this is an option they will take very seriously when they have completed the acceptance testing and are evaluating the performance of the application. He then stated the lessons learned which were on the bottom of page 16. **REP. LINDEEN** said that according to the original contract there was supposed to be converted integration testing, and she was wondering if the DOR asked for additional days for conversion. **Mr. Espeland** said the DOR attempted conversion integration testing in POINTS phase I again because of some of the performance problems they had experienced and the bad data; they only got through a portion of it and not all the conversion problems were identified. Those that were identified were fixed, but because they were working with a subset of the data not a full production conversion in POINTS phase I, they only identified a subset of the problem. In POINTS phase II, they will do a full production conversion load with everything in the legacy systems, and they will run test scripts using that full production environment. It will be close to a parallel run, but with historical data instead of current.

Mr. Espeland told the subcommittee that they will be faced with difficult challenges, then he went over the options listed on page 17. **CHAIRMAN DAVIES** asked about going forward with POINTS phase II, and **Mr. Ellison** said that there are 23-24 people working with the contractor, so that is \$1.5 million annually. **CHAIRMAN DAVIES** asked if there are additional costs to DOR in support? **Mr. Espeland** said he thought that five or six contracted employees were working on the POINTS project, including himself. **CHAIRMAN DAVIES** asked if this cost is in addition to the projected or original contract cost? **Mr.**

Espeland said that all the costs that have been projected to date include those contract employees. **CHAIRMAN DAVIES** asked if these costs come out of the requested \$18 million? **Mr. Espeland** said yes. **CHAIRMAN DAVIES** asked if it did not all go to the contractor? **Mr. Espeland** replied, no, it did not all go to the contractor. **REP. LINDEEN** asked **Mr. Espeland** if he had conversation with Denver. **Mr. Espeland** said yes, he and another individual went down to visit this site. It was shortly after the DOR started its POINTS project, and he heard Denver was having problems so went to meet Denver user staff and technical staff. He was told that they did everything wrong. There was no project manager; they had no technical expertise; and they did not have a dedicated business analysis. Denver said they did not know what they were getting into. **CHAIRMAN DAVIES** stated that the cost of department personnel working in support of this obviously has a time limit with figuring the \$18 million, so what kind of time frame are they looking at? **Mr. Espeland** responded that implementation is planned for August 15 for the individual income tax system, and the property tax system is scheduled on September 9. As of today, the schedule is still intact. Most of the contractors will be released shortly after implementation. His contract runs out in December.

REP. LINDEEN asked about the CSC discussion regarding almost \$4 million that was transferred within. What other programs are these funds transferred to? **Mr. Miller** said that money was budgeted in the programs that were to pay for the services the CSC provided. CVR administers the taxes so it is the largest customer. The document processing associated with that is a very high volume activity. They were budgeted to pay CSC for the service's provided and they did pay, exactly what was budgeted. The issue that the legislative audit raised was that they paid it without adequate documentation, and there was not a system in place to bill CVR for that specific activity. It was not unexpected spending; it was in fact budgeted that they would be paying for those services.

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ADJOURNMENT

Adjournment: 11:40 A.M.

REP. BOB DAVIES, Chairman

CYNDIE LOCKETT, Secretary

BD/CL

EXHIBIT (jgh33aad)